

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
EZRA COHEN,

Plaintiff,

-against-

ELIAS HOROWITZ a/k/a AL HOROWITZ a/k/a
ALISHA E. HOROWITZ a/k/a ALIAS HOROWITZ
a/k/a ELISHA HOROWITZ and SARAH WERZBERGER
a/k/a CHAYA SARAH WERZBERGER,

Defendants.
-----X

Case No.: 07-CIV-5834

**DEFENDANT'S RESPONSE
TO REQUEST FOR
PRODUCTION OF
DOCUMENTS**

Defendant, **ELIAS HOROWITZ** by his attorneys, Smith, Buss & Jacobs, LLP, hereby
Responds to Plaintiff's Request for Production of Documents as follows:

PRELIMINARY STATEMENTS AND OBJECTIONS

1. Defendant reserves its rights to supplement, revise, correct or clarify any of the responses or documents provided herein.
2. Defendant provides these responses and documents without waiving or intending to waive:
 - (a) any questions as to competency, relevancy, materiality, privilege, right to a protective order or other reasons or admissibility in evidence of the responses and of any documents produced or of their respective subject matter in the trial of this action;

- (b) the right to object to the use of any of the documents produced, the responses herein, or their subject matter at the trial of this action; and
 - (c) the right to object on any ground to any further requests for discovery or the right to claim a privilege with respect thereto.
3. Defendant objects to each request for production of documents to the extent that:
- (a) it is unduly broad, burdensome or oppressive;
 - (b) it is confusing and ambiguous, and thus not susceptible to a reasoned interpretation or response;
 - (c) it seeks the disclosure of information relating to subjects extraneous to the claims alleged in the above-captioned action on the ground that such discovery is not relevant or calculated to lead to the discovery of admissible evidence; and
 - (d) it seeks confidential business information and/or trade secrets; or
 - (e) it seeks documents under the control or possession of third parties who are not defendants to this action.

DOCUMENTS REQUESTED

1. All documents contained in defendant's file relating to David Cohen.

SEE ATTACHED DOCUMENTS (Bate stamped 1-69).

2. Copies of checks issued by defendant or Alice Services, Inc. after the issuance of the checks to Ezra Cohen.

NO SUCH CHECKS WERE ISSUED BY DEFENDANT AND TO THE BEST OF DEFENDANT'S KNOWLEDGE NO SUCH CHECKS WERE ISSUED BY NON-PARTY ALICE SERVICES, INC.

3. Copy of deposit slips or bank statements showing deposits made to the account of Alice Services, Inc. from 2006 to present.

SEE ATTACHED DOCUMENTS (Bate stamped 70-117).

4. Documents containing the names and addresses of all "marriage policies" policyholders whose payments have come due and have not been paid.

SEE ATTACHED DOCUMENTS (Bate stamped 118-143).

5. Documents containing the names and addresses of all "marriage policies" policyholders whose payments have come due and have been paid since June 2006.

SEE ATTACHED DOCUMENTS (Bate stamped 144-172).

6. All agreements between defendant and La Suisse relating to “marriage policies.”

SEE ATTACHED DOCUMENTS (Bate stamped 173-176).

7. All records showing the disposition of the \$20,000.00 loaned to defendant Lazer Weiss.

DEFENDANT IS NOT IN POSSESSION OF ANY DOCUMENTS RESPONSIVE TO THIS REQUEST. AS STATED IN THE FEBRUARY 18TH, 2008 DEPOSITION OF DEFENDANT, THIS LOAN WAS A CASH TRANSACTION. DEFENDANT HAS NO DOCUMENTS RELATING TO THIS TRANSACTION, OR TO THE DISBURSEMENT OF THE LOAN PROCEEDS.

8. All records showing the disposition of the money loaned to defendant by Yisroel Mordecai Felberbaum.

THERE ARE NO DOCUMENTS RESPONSIVE TO THIS REQUEST IN THE POSSESSION OR CONTROL OF DEFENDANT.

9. Copies of all bank statements for Alice Services, Inc. from June 2006 to the present.

ALICE SERVICES, INC. IS NOT A PARTY TO THIS PROCEEDING, HAS NOT BEEN SERVED WITH A SUBPOENA AND DOES NOT CONSENT TO THE RELEASE OF ANY OF ITS DOCUMENTS. (SEE RESPONSE TO DOCUMENT PRODUCTION

REQUEST 21 FOR DOCUMENTATION). IN ADDITION, TO THE EXTENT THAT ANY DOCUMENTS RESPONSIVE TO THIS REQUEST ARE IN THE POSSESSION OF DEFENDANT THEY HAVE BEEN PRODUCED IN RESPONSE TO DOCUMENT REQUEST 3. (See Documents Bate stamped 70-117).

10. Copy of defendant's passport.

SEE ATTACHED DOCUMENTS (Bate stamped 177-186).

11. Records of all transactions between defendant or Alice Services, Inc. and "marriage policies" policyholders between June 2006 to the present.

SEE ATTACHED DOCUMENTS (Bate stamped 1-176). NO OTHER DOCUMENTS RESPONSIVE TO THIS REQUEST ARE IN THE POSSESSION OR CONTROL OF DEFENDANT.

12. Copies of checks issued to Ben Zion Kish by defendant and/or Alice Services, Inc. in 2006 or 2007.

DEFENDANT IS NOT IN POSSESSION OR CONTROL OF ANY DOCUMENTS RESPONSIVE TO THIS REQUEST. ALICE SERVICES, INC IS NOT A PARTY TO THIS PROCEEDING. SEE RESPONSE TO DOCUMENT PRODUCTION REQUEST 21.

13. Copies of bank statements or other documents evidencing wire transfers to Ben Zion Kish in 2006 and/or 2007.

**DEFENDANT IS NOT IN POSSESSION OR CONTROL OF ANY DOCUMENTS
RESPONSIVE TO THIS REQUEST.**

14. Copies of all documents executed by defendant and Ben Zion Kish relating to the Din Torah between them.

**DEFENDANT IS NOT IN POSSESSION OR CONTROL OF ANY DOCUMENTS
RESPONSIVE TO THIS REQUEST. AS STATED DURING THE DEPOSITION OF
DEFENDANT, THE ARBITRATION PANEL HAS RETAINED POSSESSION OF, AND
HAS ELECTED NOT RELEASE ANY DOCUMENTS RELATING TO THE
ARBITRATION, DESPITE A DEMAND FROM DEFENDANT FOR THEIR RELEASE.**

15. Copies of "marriage policies" pursuant to which moneys were paid to Ben Zion Kish.

**DEFENDANT IS NOT IN POSSESSION OR CONTROL OF ANY DOCUMENTS
RESPONSIVE TO THIS REQUEST.**

16. Copy of most recent insurance agent license possessed by defendant.

SEE ATTACHED DOCUMENT (Bate stamped 187).

17. Copies of all statements or other documents from LaSuisse to defendant setting forth transactions between defendant and LaSuisse or between defendant and Alice Services, Inc. between May 2006 to the present or between LaSuisse and Bituswiss.

SEE RESPONSE TO DOCUMENT PRODUCTION REQUESTS 4 AND 5, (Bate stamped 118-172).

18. Copies of incorporation documents for Alice Services, Inc. and Bituswiss.

SEE ATTACHED DOCUMENTS (Bate stamped 188-189).

19. Copies of partnership or shareholder agreements between defendant and other principals of Alice Services, Inc. and between defendant and other principals of Bituswiss.

DEFENDANT IS NOT IN POSSESSION OF ANY SUCH DOCUMENTS AND TO THE BEST OF DEFENDANT'S KNOWLEDGE, NO SUCH DOCUMENTS EXIST.

20. Copies of all communications between LaSuisse and defendant relating to all policyholders of "marriage policies" to whom payments were due, but have not been paid.

SEE ATTACHED DOCUMENTS (Bate stamped 190-200).

21. Copies of bank statements or other records of banking transactions of Alice Services, Inc. from June 2006 to the present.

ALL DOCUMENTS RESPONSE TO THIS REQUEST WHICH ARE UNDER THE POSSESSION OR CONTROL OF DEFENDANT ARE ANNEXED HERETO IN RESPONSE TO DOCUMENT REQUESTS 1, 3, AND 9. ALICE SERVICES, INC IS NOT A PARTY TO THIS PROCEEDING. DEFENDANT HAS MADE REQUEST TO ALICE SERVICES, INC TO TURN OVER ANY ADDITIONAL DOCUMENTS IN ITS POSSESSION OR CONTROL RESPONSIVE TO THIS REQUEST AND RECEIVED THE RESPONSE ANNEXED HERETO (See Bate stamped documents 1-69; 70-117; and 201).

22. Copies of bank statements or other records of banking transactions of Bituswiss from June 2006 to the present.

**BITUSWISS IS NOT A PARTY TO THIS PROCEEDING. SEE DOCUMENT
ANNEXED HERETO (Bate stamped 201).**

Dated: May 9th, 2008

SMITH, BUSS & JACOBS, LLP

By: 

Jeffrey D. Buss, Esq

Attorneys for Defendant, Elias Horowitz

733 Yonkers Avenue, Suite 200

Yonkers, New York 10704

(914) 476-0600

To: Solomon Rosengarten, Esq.
1704 Avenue M
Brooklyn, New York 11230

VERIFICATION

ELIAS HOROWITZ, a religious individual whose beliefs preclude swearing, hereby affirms subject to the penalties of perjury that:

1. I have read the foregoing response to Plaintiff's Request for the Production of Documents.
2. The responses are true and accurate to the best of my knowledge and belief.
3. The documents annexed hereto and bearing bate stamps 1 through 201 are all of the documents in my possession or control which are responsive to the requests made herein.



ELIAS HOROWITZ

Dated: May 9, 2008

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ERZA COHEN,

Plaintiff,

-against-

ELIAS HOROWITZ a/k/a AL HOROWITZ a/k/a
ALISHA E. HOROWITZ a/k/a ALIAS HOROWITZ
a/k/a ELISHA HOROWITZ and SARAH WERZBERGER
a/k/a CHAYA SARAH WERZBERGER,

Defendants.
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Case No.: 07-CIV-5834

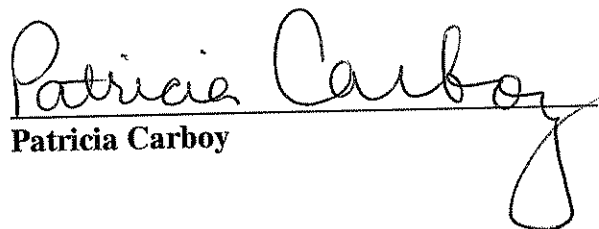
**AFFIDAVIT OF
SERVICE**

PATRICIA CARBOY, being duly sworn, deposes and says that deponent is over 18 years of age, is not a party to this action, and resides in Westchester County, State of New York.

On the 11TH day of September, 2007, deponent served a copy of a **Defendant's Response to Request for Production of Documents** in this action, by depositing a true copy thereof enclosed in a Federal Express envelope, in an official depository under the exclusive care and custody of Federal Express within New York State,

Solomon Rosengarten, Esq.
1704 Avenue M
Brooklyn, New York 11230

(Airbill No.: 8655 6965 7023)


Patricia Carboy

Sworn to me this
9th day of May, 2008



Notary Public

Georgia Stasinos
Commissioner of Deeds
City of Yonkers
Commission Expires: 6-30-09

Form
1080

021.5

SPH33
Senders Copy

4a Express Package Service

Packages up to 150 lbs.

Express Priority Overnight

☐ Next business day,
ships will be delivered on Monday
unless SATURDAY Delivery is selected.
FedEx Signature required.

☐ FedEx Standard Overnight
Next business afternoon;
Saturday Delivery NOT available.

FedEx First Overnight

Earliest next business morning
shipment delivery; Saturday
Saturday Delivery NOT available.

FedEx 2Day

☐ Second business day,* Thursday
through Sunday; ships will be delivered on Monday
unless SATURDAY Delivery is selected.
FedEx Signature required.

☐ FedEx Express Saver
Third business day,*
Saturday Delivery NOT available.

*To most locations.

4b Express Freight Service

Packages over 150 lbs.

FedEx 1Day Freight*

☐ Next business day,* Friday
shipment will be delivered on Monday
unless SATURDAY Delivery is selected.

FedEx 2Day Freight

☐ Second business day,* Thursday
shipment will be delivered on Tuesday
unless SATURDAY Delivery is selected.

FedEx 3Day Freight

☐ Third business day,*
Saturday Delivery NOT available.

**To most locations.

5 Packaging

☐ Fedex Pak*
Envelope*

☒ Fedex Pak*
FedEx Free Ship Pak,
FedEx Free Ship Pak and FedEx Sturdy Pak.

☐ Fedex Box

☐ Fedex Tube ☐ Other

*Purchased value from \$20.

6 Special Handling

Include FedEx address in Section 3.

SATURDAY Delivery
☐ NOT Available for
FedEx Standard Overnight,
FedEx First Overnight, FedEx Express
Saver, FedEx Home Delivery or
FedEx 2Day to select locations.

☐ Does this shipment contain dangerous goods?
This box must be checked.
☐ No ☐ Yes attached
Shipper's Declaration
not required.

☐ HOLD Saturday
at FedEx location
or at FedEx DDU* for
FedEx Priority Overnight and
FedEx 2Day to select locations.

☐ No ☐ Yes attached
Shipper's Declaration
not required. ☐ Dry Ice ☐ By Ice 3, UN 1845 _____ x _____ kg

Dangerous goods (including dry ice) cannot be shipped in FedEx packaging.

☐ Cargo Aircraft Only

7 Payment Bill to: Enter FedEx Acct. No. or Credit Card No. below.

☒ Sender ☐ Recipient ☐ Third Party ☐ Credit Card ☐ Cash/Check

En

FedEx Acct. No.
Credit Card No.

Total Packages

Total Weight

Total Declared Value*

\$.00

Your liability is limited to \$100 unless you declare a higher value. See back for details. By using this label you agree to the service conditions on the back of this label and to the current FedEx Service Guide, including terms that may vary by country.

8 Residential Delivery Signature Options

If you require a signature, check Direct or Indirect.

No Signature

☐ Required
Package may be left
without signature for delivery.

Direct Signature

☐ Someone at the house
must sign for delivery.
Signature required for delivery. Fee applies.

Indirect Signature

☐ Someone at the house
must sign for delivery.
Signature required for delivery. Fee applies.

51.9

PULL AND RETAIN THIS COPY BEFORE AFFIXING TO THE PACKAGE. NO POUGH NEEDED.

Rev. Date 10/06/97 #15202-9-1591-2006 FedEx-PRINTED IN U.S.A.-SSIF

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